



STATE BOARD OF EQUALIZATION

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No. 82/44

March 17, 1982

TO COUNTY ASSESSORS:

ASSEMBLY BILL 1603
PROPERTY STATEMENTS AND ASSESSMENT APPEAL HEARINGS

On January 21, 1982, the Governor approved Assembly Bill 1603 (Chapter 7, Statutes of 1982). This bill added Section 441.5 and amended Sections 442, 1604, and 2610.5, all of the Revenue and Taxation Code, and all operative on January 1, 1983.

Section 441.5, Attachments to Property Statements

Section 441.5 allows the taxpayer to furnish attachments to a property statement in lieu of completing the statement in its entirety. The following conditions must be met to constitute a valid filing:

1. All the information requested by the property statement must be contained on either the statement or on the attachments. The taxpayer cannot be excused from reporting any information required by the property statement.
2. The attachment must be in a format specified by the assessor. For example, the assessor should specify that assets must be grouped by asset type (e.g. office equipment) and by year of acquisition, and that each year of acquisition must be totaled. The assessor may also wish to set minimum standards for columnar arrangements and headings to ensure that processing of the attachment will be no more difficult than normal processing of a property statement. These requirements would prevent a taxpayer from simply submitting a depreciation schedule with assets listed in random order.
3. One copy of the property statement must be properly signed and must contain appropriate reference to the attachments.

Section 442, Property Belonging to Others

The amendment to Section 442 added a paragraph that concerns the reporting of property belonging to others. The paragraph added states:

"The requirements of this article shall be satisfied with respect to property belonging to others for which the declarer has contractual property tax obligations if the declarer includes that property in the property statement, submits the statement timely, and includes in the statement all information required in the statement pertaining to property belonging to others."

This amendment will affect imposition of the 10-percent penalty for failure to file a property statement timely (Section 463, Revenue and Taxation Code). If a lessee (or other "declarer") is contractually liable for leased property and reports it properly and timely, but the lessor (owner) fails to file his statement timely, the 10-percent penalty cannot be added to the assessment even though the lessor is assessed for the property.

This provision will be difficult to administer during the assessment season if a substantial number of lessors fail to file their returns timely. In order to determine whether the 10-percent penalty should or should not be added, it is necessary both to review the lessee's property statement and to determine whether the lessee is contractually liable for the taxes on the property.

If this information cannot be obtained before the assessment roll is closed, the assessor should add the penalty. If either the lessee or lessor questions the penalty, the assessor must: (1) determine whether the lessee reported the property in a timely manner, and (2) require proof that the lessee is liable for the property taxes. If both conditions are met, initiate a roll correction under Section 4831. We do not believe it is necessary to require that an assessment appeal be filed if the assessor is satisfied that all the requirements of Section 442 were met.

Section 1604, Assessment Appeals

Paragraph (c) was added to Section 1604 to provide that the taxpayer's opinion of market value shall prevail if the appeal is not heard within two years, with certain exceptions. The two-year provision is waived if:

1. The taxpayer and assessment appeals board mutually agree in writing to extend the time; or
2. the taxpayer failed to provide full and complete information as required by law; or
3. litigation is pending which directly relates to the issues involved in the application.

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The Board's legal staff has concluded that this amendment applies only to assessment appeals filed on or after January 1, 1983, the operative date of this act. However, since AB 1603 does not specify whether the amendment is prospective or retrospective, it would be advisable to hear all appeals cases filed during 1980 or earlier by the end of this year.

Section 2610.5, Mailing of Tax Bills


The following paragraph was added to Section 2610.5:

"With respect to a late or supplemental tax bill, the penalty imposed for delinquent taxes shall be waived by the auditor or tax collector for the period of 30 days following the date the late or supplemental bill is mailed."

Section 2610.5 is of concern to the county auditors and tax collector but is included here for your information.

A copy of AB 1603 is enclosed. Please contact Charlie Knudsen of this division if you have questions or comments regarding this letter.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

VW:hlo
Enclosure
AL-08-1196A